

**STAFF WORK ADVISORY TEAM
QUESTIONS AND ANSWERS REGARDING
SCOPE OF PRACTICE**

(New 10-03)

Q1. DMH Letter No. 94-09 specifies that only skilled professional medical personnel time can be claimed for related quality improvement activities. Do waived and registered personnel meet the definition of “skilled professional medical personnel”?

A1. The Department of Mental Health (DMH) has not been able to find any indication that either the federal Centers for Medicare and Medicaid Services (CMS) or the State Department of Health Services (DHS) have addressed whether or not waived or registered personnel meet the definition of skilled professional medical personnel. Since the term "licensed" is used often in defining such personnel, DMH recommends that MHPs claim only for individuals whose license or waiver category permits them to practice without supervision. DMH Letter No. 94-09 has not been superseded.

Q2. Regarding the AA degree referenced in Title 9, CCR, Section 630, defining a Mental Health Rehabilitation Specialist, can two years of college be substituted for the AA degree?

A2. Receipt of an AA degree is an absolute. Two years of college cannot substitute for it.

Title 9, CCR, Section 630, reads: "A mental health rehabilitation specialist shall be an individual who has a baccalaureate degree and four years of experience in a mental health setting as a specialist in the fields of physical restoration, social adjustment, or vocational adjustment. Up to two years of graduate professional education may be substituted for the experience requirement on a year-for-year basis; up to two years of post associate arts clinical experience may be substituted for the required educational experience in addition to the requirement of four years' experience in a mental health setting."

Q3. Can a waived staff be a head of service?

A3. Yes, if the waived staff meets the definition of head of service per Title 9, CCR. Sections 622-630. See below:

Section 623. Psychiatrist.

A psychiatrist who directs a service shall have a license as a physician and surgeon in this state and show evidence of having completed the required course of graduate psychiatric education as specified by the American Board of Psychiatry and Neurology in a program of training accredited by the Accreditation Council for Graduate Medical Education, the American Medical Association or the American Osteopathic Association.

Section 624. Psychologist.

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A psychologist who directs a service shall have obtained a California license as a psychologist granted by the State Board of Medical Quality Assurance or obtain such licensure within two years following the commencement of employment, unless continuously employed in the same class in the same program or facility as of January 1, 1979; and shall have two years of post doctoral experience in a mental health setting.

Section 625. Social Worker

A social worker who directs a service shall have a California license as a clinical social worker granted by the State Board of Behavioral Science Examiners or obtain such licensure within three years following the commencement of employment, unless continuously employed in the same class in the same program or facility as of January 1, 1979, or enrolled in an accredited doctoral program in social work, social welfare, or social science; and shall have two years of post master's experience in a mental health setting.

Section 626. Marriage, Family and Child Counselor.

A marriage, family, and child counselor who directs a service shall have obtained a California license as a marriage, family, and child counselor granted by the State Board of Behavioral Science Examiners and have received specific instruction, or its equivalent, as required for licensure on January 1, 1981, and shall have two years of post master's experience in a mental health setting. The term, specific instruction, contained in Sections 5751 and 5751.3 of the Welfare and Institutions Code, shall not be limited to school, college, or university classroom instruction, but may include equivalent demonstrated experience in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family, and child relationship dysfunctions.

Section 627. Nurses.

A nurse shall be licensed to practice as a registered nurse by the Board of Nursing Education and Nurse Registration in this State and possess a master's degree in psychiatric or public health nursing, and two years of nursing experience in a mental health setting. Additional post baccalaureate nursing experience in a mental health setting may be substituted on a year-for-year basis for the educational requirement.

Section 628. Licensed Vocational Nurse.

A licensed vocational nurse shall have a license to practice vocational nursing by the Board of Vocational Nurse and Psychiatric Technician Examiners and possess six years of post license experience in a mental health setting. Up to four years of college or university education may be substituted for the required vocational nursing experience on a year-for-year basis.

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Section 629. Psychiatric Technician.

A psychiatric technician shall have a current license to practice as a psychiatric technician by the Board of Vocational Nurse and Psychiatric Technician Examiners and six years of post license experience in a mental health setting. Up to four years of college or university education may be substituted for the required psychiatric technician experience on a year-for-year basis.

Section 630. Mental Health Rehabilitation Specialist.

A mental health rehabilitation specialist shall be an individual who has a baccalaureate degree and four years of experience in a mental health setting as a specialist in the fields of physical restoration, social adjustment, or vocational adjustment. Up to two years of graduate professional education may be substituted for the experience requirement on a year-for-year basis; up to two years of post associate arts clinical experience may be substituted for the required educational experience in addition to the requirement of four years' experience in a mental health setting.

Q4. DMH Letter No. 02-09, which addresses professional licensing waivers, specifies that only licensed, waived, or registered individuals can provide mental health services. Does this mean the non-licensed, waived, or registered staff, e.g., mental health rehabilitation specialists, cannot provide mental health services? And does the payer source, e.g., Medi-Cal, make a difference?

A4. *The definition of mental health services in DMH Letter No. 02-09 is a very different definition from that found in Title 9, Chapter 11.*

DMH Letter No. 02-09, "Professional Licensing Waiver Requirements, dated December 20, 2002, defines mental health services as follows: ". . . Mental Health Services . . . refers to those types of treatment and services that require the practitioner to hold a license."

Title 9, CCR, Section 1810.227 defines mental health services as follows: "Mental Health Services" means those individual or group therapies and interventions that are designed to provide reduction of mental disability and improvement or maintenance of functioning consistent with the goals of learning, development, independent living and enhanced self-sufficiency and that are not provided as a component of adult residential services, crisis residential treatment services, crisis intervention, crisis stabilization, day rehabilitation, or day treatment intensive. Service activities may include but are not limited to assessment, plan development, therapy, rehabilitation, and collateral."

DMH Letter No. 02-09's definition of mental health services is very narrow and specific to the psychologist, social worker, and marriage and family therapist (MFT) candidates. Title 9's definition is much broader and not specific to any particular staff discipline.

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Title 9, CCR, Section 1840.314(d) specifies: "Services shall be provided within the scope of practice of the person delivering service, if applicable." MHPs can determine scope of practice as long as it doesn't violate state and federal laws and regulations.

This means that MHPs can determine when staff are performing therapy that requires a license/waiver/registration and when staff are performing a non-therapy mental health service as long as it doesn't violate state and federal laws and regulations.

This is not a Medi-Cal specific requirement. This requirement applies to all services provided in local mental health programs for which a license is required regardless of payer source.

Q5. Who can complete an assessment to establish medical necessity?

A5. MHPs are to establish this standard within scope of practice laws and regulations.

Q6. What are the rules on co-signatures?

A6. Neither Title 9, CCR regulations nor the DMH/MHP contract require co-signatures. MHPs may set co-signature requirements to meet the MHPs needs, subject to the following:

Co-signatures may be used as a tool for clinical supervision, e.g., co-signature of a licensed staff on progress notes of a student to indicate they were provided under the direction of the licensed staff per written agreement between the provider and an accredited school.

Co-signatures may not be used as a method of getting around scope of practice issues, e.g., co-signature of a licensed staff on progress notes of a staff who is not in a school program, waived, or registered with the licensing board.